

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SACRED HEART OF JESUS PARISH, GRAND  
RAPIDS; JERRY AND ROBIN HATLEY;  
JOSEPH AND RENEE BOUTELL; and PETER  
and KATIE UGOLINI,

Plaintiffs,

v

DANA NESSEL, in her official capacity as  
Attorney General of Michigan; JOHN E.  
JOHNSON, JR., in his official capacity as  
Executive Director of the Michigan Department  
of Civil Rights; PORTIA L. ROBERSON,  
ZENNA FARAJ ELHASON, GLORIA E. LARA,  
REGINA GASCO-BENTLEY, ANUPAMA  
KOSARAJU, RICHARD CORRIVEAU, DAVID  
WORTHAMS and LUKE R. LONDO, in their  
official capacities as members of the Michigan  
Civil Rights Commission,

Defendants.

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David A. Cortman, Arizona Bar No. 029490  
Ryan J. Tucker, Arizona Bar No. 034382  
Katherine L. Anderson, Arizona Bar 033104  
Alliance Defending Freedom  
15100 N. 90<sup>th</sup> Street  
Scottsdale, Arizona 85260  
480.444.0020  
480.444.0028 (facsimile)  
[rtucker@ADFlegal.org](mailto:rtucker@ADFlegal.org)  
[kanderson@ADFlegal.org](mailto:kanderson@ADFlegal.org)

John J. Bursch (P57679)  
Hailey M. Vrdolyak, Illinois Bar No. 6333515  
Alliance Defending Freedom  
440 First Street, NW, Suite 600  
Washington, DC 20001  
202.393.8690  
[jbursch@ADFlegal.org](mailto:jbursch@ADFlegal.org)  
[hvrldolyak@ADFlegal.org](mailto:hvrldolyak@ADFlegal.org)

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No. 1:22-cv-1214

HON. JANE M. BECKERING

MAGISTRATE PHILLIP J.  
GREEN

**DEFENDANTS MOTION TO**  
**DISMISS**

Kimberly Pendrick (P60348)  
Assistant Attorney General  
Attorney for Defendants  
3030 West Grand Boulevard  
Detroit, Michigan 48202  
313.456.0200  
[pendrickk@michigan.gov](mailto:pendrickk@michigan.gov)

Cassandra Drysdale-Crown  
(P64108)  
Assistant Attorney General  
Attorney for Defendants  
P.O. Box 30736  
Lansing, MI 48909  
517.335.7659  
[drysdalecrownnc@michigan.gov](mailto:drysdalecrownnc@michigan.gov)

**DEFENDANTS MOTION TO DISMISS**

Defendants, through counsel and under Fed. R. Civ. P. 12(b)(1), move this Court to dismiss Plaintiffs' complaint. Defendants state in support:

1. Plaintiffs' complaint should be dismissed because its claims are premature and thus not ripe for judicial review. Plaintiffs' allegations are based on speculation and insufficient to maintain its claims.

2. Plaintiffs also lacks standing where it cannot establish the requisite injury-in-fact to supports its claims.

3. This Court should abstain from deciding Plaintiffs Fourteenth Amendment claims where the appropriate state entities have not yet made any findings on the nature of Michigan's religious exemptions as applied to sexual orientation and gender identity in the Elliott-Larson Civil Rights Act, Mich. Comp. Laws §§ 37.2101, *et seq.*, nor the Michigan Equal Accommodations Act, specifically Mich. Comp. Laws § 750.146, 750.147.

4. This Court should abstain from deciding Plaintiffs' Jerry and Robin Hatley's, Joseph and Renee Boutell's, and Peter and Katie Ugolini's First Amendment's free exercise claim where the appropriate state entities have not yet made any findings on the nature of Michigan's religious exemptions as applied to sexual orientation and gender identity in the Elliott-Larson Civil Rights Act, Mich. Comp. Laws §§ 37.2101, *et seq.*

5. This Court should abstain from deciding Plaintiffs' Due Process Clause challenge where the appropriate state entities have not yet made any findings on the nature of Michigan's religious exemption as applied to public accommodations.

6. This Court should decline to issue declaratory relief where there is no actual controversy, there is no necessity to clarify the legal relations of the parties, and the issue of the scope of religious exemptions for public accommodations has not yet been determined by any Michigan agency or court.

7. The Court should decline to issue permanent injunctive relief where Plaintiffs fail to show a continuing irreparable injury or that it lacks an adequate remedy at law. Further, no injunction is required where any declaration of unconstitutionality would put Defendants on notice regarding the unconstitutionality of the challenged statute.

8. For these reasons and the reasons stated more fully in the accompanying brief in support, Defendants respectfully request that this Honorable Court enter an order dismissing Plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(1), in addition to any other relief this court deems just and equitable.

Respectfully submitted,

s/Cassandra A. Drysdale-Crown  
Cassandra Drysdale-Crown (P64108)  
Assistant Attorney General  
Attorney for Defendants  
P.O. Box 30736  
Lansing, MI 48909  
517.335.7659  
[drysdalecrown@michigan.gov](mailto:drysdalecrown@michigan.gov)

Dated: February 28, 2023

### **CERTIFICATE OF SERVICE**

I hereby certify that on February 28, 2023, I electronically filed the above document(s) with the Clerk of the Court using the ECF System, which will provide electronic copies to counsel of record.

*s/Cassandra Drysdale-Crown*  
Cassandra Drysdale-Crown (P64108)  
Assistant Attorney General